THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/S) No. 174 of 2006

Mohd. Irfan S/O Sri Phool Mohammad,
R/O Jalalpur Data, Pargana Bhagwan pur
Tehsil Roorkee, District Haridwar ……. **Petitioner**

Versus

1. Sayed S/O Rafik, R/O village Jalalpur Dada
   Pargana Bhagwanpur, Tehsil Roorkee,
   District Haridwar.
2. Smt. Kamlesh Saini, w/o Dhirendar, Pradhan,
   Gaon Sabha, R/O Jalalpur Dada.
3. State of Uttaranchal through Collector Haridwar,
4. Civil Judge (J.D.) Roorkee.

….. **Respondents.**

Sri Nagesh Aggarwal, learned counsel for the petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondent no. 3 and 4.

Dated March 01, 2006.

Hon'ble B.S. Verma, J.

Heard learned counsel.

The petitioner has filed the present writ petition for setting aside the order dated 14-02-2006 (Annexure No. 6 to the writ petition) passed by the Incharge Civil Judge (J.D.) Roorkee in Original Suit No. 11 of 2006 Mohd. Irfan Vs. Sayed etc., whereby the application 20-C moved by the plaintiff under Section 151 C.P.C. for grant of temporary injunction was ordered to be put up before the presiding Officer on the date fixed. The petitioner has further prayed that the respondent no. 4 be directed to decide the said application forthwith.

Relevant facts giving rise to the writ petition are that the petitioner filed an injunction suit before the respondent no. 4 against respondent nos. 1 and 2 on 24.1.2006. Along with the plaint, the plaintiff filed an application paper no. 6-C2 under Order 39, Rules 1 and 2 C.P.C. for ad interim injunction against the respondent no. 1 and 2. On this application, the trial court issued notice to the O.P. defendants. It is alleged that the respondents did not filed any

objection against the same. It appears that the plaintiff-petitioner moved another application under Section 151 of the C.P.C. with a prayer that ad interim injunction be issued in his favour against the defendants on 14.2.2006 contending that the defendants were giving continuous threats to close the coal mining. On this application, the impugned order was passed. Aggrieved the plaintiff-petitioner has come up in this Writ Petition.

In the course of arguments, the learned counsel for the petitioner confined his prayer that the ends of justice will be served if a direction for expeditious disposal of temporary injunction application is issued to the respondent no. 4. It was submitted by the learned counsel for the petitioner that the application under Order 39, Rules 1 and 2 C.P.C. has not been decided so far.

Considering the facts and circumstances of the case, I am of the view that it is a fit case in which direction to the respondent no. 4 for expeditious disposal of the application under Order 39, Rules 1 and 2 as well as application 20-C moved under Section 151 C.P.C. by the petitioner will serve the ends of justice.

Accordingly, the respondent no. 4 is directed to decide the application for temporary injunction filed by the petitioner under Order 39, Rules 1 and 2 C.P.C. read with application under Section 151 CPC (20-C) in Original Suit No. 11 of 2006 on merits in accordance with law expeditiously within fifteen days from the date of production of certified copy of this order.

With the above observation, the writ petition is disposed of finally.

A copy of this order be issued to the learned counsel for the petitioner on payment of usual charges today.

(B.S.Verma, J.)

RCP